

GAHC010078302025



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/1464/2026

ABDUL KARIM BAKSHI @ ABDUL KARIM BAKSHI
S/O. LT. SAHANULLA BAKSHI
R/O. VILL.- PUB-SAIDARIA
MOUZA-SAIDARIA
DIST. NAGAON
ASSAM
PIN-782125

VERSUS

TELIACHAPORITOOOP DALANGPAR JAME MASJID COMMITTEE
TELIACHAPORITOOOP
MOUZA-SAIDARIA
DIST. NAGAON
ASSAM
REP. BY ITS SECRETARY

Advocate for : MR. M S ALAM
Advocate for : G BORO appearing for TELIACHAPORITOOOP DALANGPAR JAME
MASJID COMMITTEE

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

07.05.2026

Heard Mr. S Mitra, learned counsel for the applicant. Also heard Mr. D J Haloi, learned counsel for the sole respondent.

The present interlocutory application has been filed under Order XLI Rule 5 of the CPC seeking stay of further proceedings in Title Execution No. 16/2025 pending before the Court of the learned Civil Judge (Jr. Div.) No. 1, Nagaon.

The connected RSA, wherein the judgment and decree passed by the learned Appellate Court as well as the judgment and decree passed by the learned Trial Court are under challenge, has already been admitted by this Court upon formulation of substantial questions of law vide order dated 07.05.2026. Admission of the appeal upon framing of substantial questions of law itself prima facie demonstrates that the matter requires deeper judicial scrutiny at the stage of final adjudication.

Mr. S. Mitra, learned counsel appearing for the applicant, submits that during pendency of the connected RSA, execution proceedings have been initiated and a writ of attachment has also been issued. It is further submitted that the applicant continues to remain in possession of the Schedule-B land and that if the execution proceeding is permitted to continue during pendency of the second appeal, the applicant would suffer serious and irreversible prejudice which may ultimately render the appeal itself nugatory.

This Court has considered the submissions advanced by the learned counsel for the parties and has also taken note of the materials available on record. It is not in dispute that the applicant is presently in possession of the Schedule-B land. Once the

connected RSA has already been admitted upon formulation of substantial questions of law, permitting the execution proceeding to continue unabated would not only alter the existing state of affairs but may also give rise to irreversible and drastic civil consequences affecting possession over the subject suit land. Such a situation, if allowed to continue, may seriously prejudice the rights of the applicant during pendency of the appeal and defeat the very purpose for which the appellate jurisdiction has been invoked.

The principles governing grant of stay in such circumstances stand fortified by the law laid down by the Apex Court in ***Mool Chand Yadav & Anr. -Vs- Raza Buland Sugar Company Ltd***, reported in ***(1982) 3 SCC 484***, wherein the necessity of preserving the subject matter of litigation during pendency of appellate proceedings was emphasized so as to ensure that the appeal does not become illusory or infructuous. In the considered opinion of this Court, balance of convenience also lies in maintaining status quo till the connected RSA is finally adjudicated.

Accordingly, further proceedings in Title Execution No. 16/2025 pending before the Court of the learned Civil Judge (Jr. Div.) No. 1, Nagaon, including operation of the writ of attachment issued therein, shall remain stayed and kept in abeyance till disposal of the connected RSA.

With the above observations and directions, the instant interlocutory application stands allowed and disposed of.

JUDGE

Comparing Assistant